

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

NATIONAL CITY COMMERCIAL
CAPITAL COMPANY, LLC,

Plaintiff

v.

C-1-08-468

CALIBER HOMES, LLC, *et al.*,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 37) to which no objections have been filed.

Upon a *de novo* review of the record, the Court finds that the Judge has accurately set forth the applicable law and has properly applied it to the particular facts of this case. Accordingly, in the absence of any objection by plaintiff, this Court accepts the Report as uncontroverted.

The Report and Recommendation of the United States Magistrate Judge (doc. no. 37) is hereby **ADOPTED AND INCORPORATED HEREIN BY REFERENCE**. Defendant's Motion to Dismiss the Amended Complaint (doc. no. 19) is **DENIED**.

This case is **RECOMMITTED** to the United States Magistrate Judge for further proceedings according to law.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court